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Counsel to TH Holdco LLC

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re
85 FLATBUSH RHO MEZZ LLC, et al.,¹

Debtors

Case No. 20-23280 (SHL)
Chapter 11

(Jointly Administered)

**TH HOLDCO LLC'S MOTION FOR ORDER SHORTENING NOTICE WITH
RESPECT TO MOTION TO PURSUE DISCOVERY AND DEPOSITIONS
PURSUANT TO BANKRUPTCY RULE 2004**

TH Holdco LLC ("TH Holdco") hereby files this motion (the "Motion to Expedite") for expedited consideration of its *Motion to Pursue Discovery and Depositions Pursuant to*

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor's federal tax identification number, include: 85 Flatbush RHO Mezz LLC (6184); 85 Flatbush RHO Hotel LLC (5027); and 85 Flatbush RHO Residential LLC (2261).

Bankruptcy Rule 2004 (Docket No. 353) (the “Rule 2004 Motion”) and requests entry of an order substantially in the form attached hereto as **Exhibit A** (the “Proposed Order”).

JURISDICTION AND VENUE

1. The United States Bankruptcy Court for the Southern District of New York (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated February 1, 2012. This is a core proceeding within the meaning of 28 U.S.C. § 158(b)(2), and TH Holdco confirms its consent, pursuant to Bankruptcy Rule 7008, to the entry of a final order by the Court in connection with this Motion to Expedite and the underlying Rule 2004 Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

2. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The statutory basis for the relief requested herein is 11 U.S.C. § 105(a) and Rule 9006(c) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

BACKGROUND

4. TH Holdco hereby incorporates by reference the facts in its Rule 2004 Motion and prior pleadings referenced therein.

5. As further described in the Rule 2004 Motion, TH Holdco seeks authorization to conduct an investigation regarding the various problems at the Property that have been identified on or after the credit bid transaction closed and the Properties were turned over to TH Holdco. The primary purpose of the Rule 2004 Motion is to seek discovery from the owners of the Debtors, employees and independent contractors of the Debtors, GC Realty, LLC, Debtors’ counsel, the staging company which was onsite at the closing date, occupants of the apartment buildings without signed leases, and vendors who received payments over \$100,000 in the aggregate who may have connections with the Debtors’ Insiders (as further defined in the Rule 2004 Motion, the

“Discovery Parties”) regarding the numerous issues discovered on and after TH Holdco has been onsite at the property beginning on November 9, 2022.

6. Prior to the filing of this Motion to Expedite, counsel for TH Holdco engaged informally with the Debtors and certain other parties to obtain information and documents relevant to the issues described in the Rule 2004 Motion. To date, TH Holdco has made inquiries, but has not received adequate answers to those inquiries, and has now reached a point in which formal discovery and investigation process must be established.

7. This Court is scheduled to hold a status hearing on the issues raised by TH Holdco’s November 10, 2022 letter to the Bankruptcy Court (Docket No. 340) on Thursday, December 1, 2022. *See Memorandum Endorsed Order* (Docket No. 352). Given the interrelatedness of the issues raised in TH Holdco’s November 10, 2022 letter and the Rule 2004 Motion, and for purposes of practicality, TH Holdco requests that both motions be addressed in conjunction at the December 1, 2022 hearing.

BASIS FOR RELIEF

8. Bankruptcy Rule 9006(c)(1) authorizes the Court, for cause shown, to reduce the notice period otherwise required for the Rule 2004 Motion. The circumstances of these Cases and the facts set forth above and in the Rule 2004 Motion warrant shortening notice and resolution of the Rule 2004 Motion on an expedited basis.

9. TH Holdco respectfully submits that good cause and compelling circumstances exist to support this Motion to Expedite. Having the Rule 2004 Motion granted will cause the third parties to have to preserve responsive documents. The sabotage that occurred at the Property is truly outrageous and needs to be investigated and addressed starting in December. The information sought in the Rule 2004 Motion relates to the topics to be addressed at the December 1, 2022 status hearing.

10. TH Holdco respectfully requests that the Rule 2004 Motion be heard on **Thursday, December 1, 2022 at 10:00 a.m. (prevailing Eastern Time)**, or the earliest practical date.

11. No previous request for the relief sought herein has been made by TH Holdco to this or any other court.

CONCLUSION

WHEREFORE, TH Holdco seeks (i) entry of an order in substantially the form attached as **Exhibit A** hereto, and (ii) such other and further relief as the Court deems just.

Dated: November 23, 2022
New York, New York

DENTONS US LLP

/s/ Lauren M. Macksoud

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Counsel to TH Holdco LLC

CERTIFICATE OF SERVICE

I hereby certify that on November 23, 2022, a true and correct copy of the foregoing *Motion to Expedite* was caused to be served via the Court's CM/ECF system on all parties authorized to receive electronic notice in these Cases as well as personal counsel to Sam Rubin.

/s/ Lauren M. Macksoud
Lauren M. Macksoud

Exhibit A

(Proposed Order)